

2009-11

>>> Clerk Info 9/29/2009 1:06 PM >>>

>>> "Kenneth Malkin" <malkink@baycounty.net> 9/29/2009 12:07 PM >>>

Dear Clerk,

The Criminal Law Section adopted a resolution listed below by an electronic vote of 21 to 0 opposing the proposed amendment to MCR 6.302. That electronic vote was reaffirmed at our Annual Meeting by a vote of 11 to 0.

RESOLUTION: The Criminal Law Section is opposed to the amendment of MCR 6.302 as presented in the Michigan Supreme Court's Order ADM2009-11. The proposed addition of amendatory language to MCR 6.302(C)(1) would have a chilling effect on plea negotiations between the defendant, his or her counsel, and prosecution. Also, the requirement of placing all negotiation discussions on the record could result in unintended consequences. These consequences may include the unnecessary expenditure of scant judicial resources during tedious negotiations and the disclosure of information that may place the defendant in jeopardy or lead to a lack of impartiality by the sentencing judge if an agreement is not reached or not accepted by the sentencing judge.

The Criminal Law Section recommends that the State Bar of Michigan adopts this Section position.

Submitted by,

Criminal Law Section
Kenneth M. Malkin, Secretary